

Application No. 09/865,145
Attorney Docket No. 010080
Reply to Office Action dated October 13, 2008

REMARKS/ARGUMENTS

The Office Action dated August 13, 2008 has been carefully reviewed. Reconsideration of the objections and rejections contained therein is respectfully requested in view of the following remarks. Claims 1-3, 5-6, 8-9, 12-15 and 18-33 are pending in the application.

35 U.S.C. § 112 Rejections

Claims 29-33 were rejected under 35 U.S.C. § 112, first paragraph, because the specification allegedly fails to comply with the written description requirement. Applicant respectfully traverses this rejection because the claims have adequate support in the specification as originally filed.

In the rejection, the Examiner asserted that “[t]here is no disclosure of a computer readable media embodying logic for processing received audio signals in a device.” Applicant respectfully disagrees, and respectfully reminds the Examiner of the provisions set forth in MPEP 2163.02, which states:

The subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.

The MPEP sets forth the standard for satisfying the written description requirement (MPEP 2163.02, emphasis added):

An objective standard for determining compliance with the written description requirement is, “does the description clearly allow persons of ordinary skill in the art to recognize that he or she invented what is claimed.” *In re Gosteli*, 872 F.2d 1008, 1012, 10 USPQ2d 1614, 1618 (Fed. Cir. 1989). Under *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64, 19 USPQ2d 1111, 1117 (Fed. Cir. 1991), to satisfy the written description requirement, an applicant must convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention, and that the invention, in that context, is whatever is now claimed.

In paragraph [0048] of the specification, for example, the instant application discloses various embodiments of stereo/mono control unit 310, which “might not provide a simple disable signal as in the case for the digital-to-analog converter, but rather the control output 396 could be a command to the digital signal processor to enable or disable the firmware portion of the receive gain 366 and receive filter 368” (emphasis added). Moreover, stereo/mono control unit 310 may, for example, “receive digital audio signals from audio mux 222” (para. no. [0049]). While the specification does not literally disclose “computer readable media,” Applicant submits that such literal support is not required to adequately support claims 29-33.

Applicant submits that a specification disclosing a controller, which can accept digital inputs and can provide commands to a digital signal processor to enable or disable firmware, would convey with reasonable clarity to one of ordinary skill in the art that Applicant was in possession of the subject matter recited in claims 29-33. Moreover, the fact that the specification discloses an embodiment utilizing firmware is sufficient under §112, first paragraph, as one of ordinary skill would appreciate that firmware includes code stored in memory (e.g., ROM, ROM, PROM, EPROM, EEPROM, etc.), which is a “computer readable media.”

Accordingly, Applicant respectfully requests that the Examiner withdraw the §112, first paragraph, rejection of claims 29-32.

35 U.S.C. § 102 Rejection

Claims 1-3, 5, 6, 8-9, 12-15 and 18-33 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Adams (U.S. Patent No. 6,594,366). Applicant respectfully traverses this rejection for at least the following reasons.

Reply to Examiner's Response to Arguments

Since the Examiner has maintained the prior rejections and has provided arguments in support of this position, Applicant will address the Examiner's response first.

In the response to arguments section on page 5 of the Office Action, the Examiner asserted that Adams teaches "a first input for receiving an audio multiplexer input that indentifies whether a signal provided to the audio codec by the audio multiplexer is one of voice, stereo music, and mono music. The type of signal is determined by a sensing circuit." Applicant respectfully disagrees, and submits the Examiner's interpretation of the reference is overly and impermissibly broad.

Applicant submits that the sensing circuit 210a as disclosed by Adams merely senses the impedance of a set of headphones. The sensing circuit does not identify a signal type provided to an audio codec as asserted by the Examiner. The sensing circuit merely provides a DC voltage at node N, which is then used to determine the impedance of the headphones using a comparator 224 (col. 4, lines 26-45; Fig. 4). Applicant submits that Adams sensor cannot determine a signal which identifies one of voice, stereo music, and mono music, because the DC voltage used by the sensor cannot convey time-varying signal information, and thus cannot discriminate between voice, stereo music, and mono music.

On page 6 of the Office Action, the Examiner asserted that “[i]f a component is disconnected, it is, in essence, disabled.” Applicants respectfully disagree. Adams merely discloses disconnecting the outputs of radio unit 202 (col. 3, lines 45-61). While this may conserve some power, as the headphones are not being driven by the radio unit’s output stage, the radio is still operating and consuming power, and is thus not disabled. Merely disconnecting the output the radio unit will not affect other sections therein, such as, for example, the radio unit’s RF front end. Accordingly, the radio is not disabled, as it is operating and providing a signal which is available for use.

Finally, the Examiner asserts on page 6 that because “the background of the instant application states that codecs are in general use in various mobile units, such as cellular phones ... they are well known in the art and subsequently inherent in Adam’s device 50.” Applicant respectfully disagrees, and respectfully reminds the Examiner of provisions set forth in MPEP 2112 regarding inherency (bold emphasis added).

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) ... “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is **necessarily present** in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’ ” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

Applicant submits that the background disclosure indicating that codecs “are in general use in various mobile units, such as cellular phones” does not imply that a codec must be necessarily present, as inherency would require. Accordingly, Applicant traverses the Examiner’s assertion that codecs are inherent.

In summary, Applicant traverses the §102 rejection of the pending claims based on Adams, because Adams fails to show all of the claimed features as required to establish a prima facie

case of anticipation. Specifically, Applicant maintains that Adams fails to disclose, at least, “an audio mux input identifying a type of a signal that the codec received from the audio mux ... and ... a control output to the codec based on the ... identified type of the signal,” as recited in claim 1; “determining a type of received audio signals; wherein the type identifies whether a signal provided to the audio codec by the audio multiplexer is one of voice, stereo music, and mono music,” as recited in claim 12; and “a stereo/mono control unit having a first input for receiving an audio multiplexer input that identifies whether a signal provided to the audio codec by the audio multiplexer is one of voice, stereo music, and mono music,” as recited in claim 23.

Accordingly, Applicant requests that the Examiner withdraw the rejections of the claims.

SUMMARY

Since the Examiner has maintained the rejection of claims 1-3, 5, 6, 8-9, 12-15 and 18-33 under 35 U.S.C. § 102 as noted above, Applicant once again traverses these rejections. Applicant expressly maintains the reasons from the prior responses to clearly indicate on the record that Applicant has not conceded any of the previous positions relative to the maintained rejections. For brevity, Applicant expressly incorporates the prior arguments presented in the May 12, 2008 response without a literal rendition of those arguments in this response.

For at least the foregoing reasons and the reasons set forth in Applicant’s response of May 12, 2008, it is respectfully submitted that claims 1-3, 5, 6, 8-9, 12-15 and 18-33 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

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For example, claim 2 recites "wherein the control output is coupled to a plurality of components in a receive audio processing path of the codec." In another example, claim 3 recites "wherein the control output disables at least one of a plurality of components to reduce power consumption in the receive audio processing path of the codec."

CONCLUSION

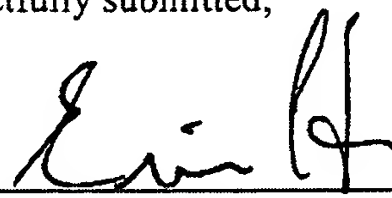
In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: 10/13/08

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